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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/760,039	01/12/2001	Joseph Rinchiuso	CE08395R	1866

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EXAMINER	
HAILE, FEBEN	
ART UNIT	**PAPER NUMBER**
2474	

NOTIFICATION DATE	DELIVERY MODE
12/09/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Docketing.US@motorola.com

Office Action Summary	Application No.	Applicant(s)	
	09/760,039	RINCHIUSO ET AL.	
	Examiner	Art Unit	
	FEBEN HAILE	2474	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 September 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3 and 7-9* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3 and 7-9* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. In view of applicant's amendment filed September 01, 2009, the status of the application is still pending with respect to claims 1-3 and 7-9.

2. The amendment filed is insufficient to overcome the rejection of claims 1-3 and 7-9 based upon previously cited art as set forth in the last Office action because: the Applicant's claimed invention fails to clarify a distinction over cited references, thus the subject matter is unpatentable.

Response to Arguments

3. Applicant's arguments filed have been fully considered but they are not persuasive.

The Applicant respectfully traverses that Forssell does not teach the following element of claims 1 and 7: “delaying termination of the TBF by transmitting dummy data over the wireless data channel”. The Examiner respectfully disagrees. As discussed in the previous rejection, Forssell teaches (1) if a mobile station does not have data to be transmitted, a packet dummy control block that informs the network when a temporary block flow can be released is transmitted and (2) releasing the TBF after a predetermined time has passed from the latest transmission. Furthermore, Forssell suggests maintaining the TBF connection during a passive period, i.e. when the mobile station doest not have data to be transmitted, such that the packet dummy control

blocks can be transmitted over the TBF, i.e. data channel, during this passive period. Therefore as the claims are reasonably interpreted in their broadest sense, the Examiner believes that Forssell in combination with Koo and Pankaj indeed does render the Applicant's invention obvious.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-3 and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koo et al. (US 6,804,219), hereinafter referred to as Koo, in view of Pankaj et al. (US 6,229,795), hereinafter referred to as Pankaj, in view of Forssell et al. (US 6,671,511), hereinafter referred to as Forssell.

Regarding claim 1, Koo discloses transmitting data over a wireless data channel at a data rate **(figure 2 and column 2 line 39; in an active state, data is transmitted on a traffic channel at a high/low rate)**; determining that no more data need to be transmitted **(column 2 lines 44-46; it is determined that data transmission is discontinued)**; delaying dropping the data channel for a time period **(column 2 lines 46-47; when the transmission is discontinued for a predetermined time, the traffic channel is released)**.

Koo fails to explicitly suggest wherein the time period is based on the data rate.

Pankaj teaches wherein the time period is based on the data rate **(column 12 lines 35-61; scheduling a premium queue for transmission by maintaining a timer that is based upon data rate)**.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the method of allocating resources taught by Pankaj into the state transition method disclosed by Koo. The motivation for such a modification is a system and method of allocating communication resources among subscribers to a communication network efficiently and fairly according to a network policy of allocating the communication resources among the subscribers.

Koo, Pankaj, and/or their combination fail to explicitly suggest establishing a temporary block flow (TBF) to transmit data over the wireless data channel; and delaying termination of the TBF by transmitting dummy data over the wireless data channel.

Forssell teaches establishing a temporary block flow (TBF) to transmit data over the wireless data channel **(column 10 lines 13-18; establishing a temporary block flow to transmit data)**; and delaying termination of the TBF **(column 11 lines 51-54; releasing a temporary block flow after a predetermined time has passed from the latest transmission)** by transmitting dummy data over the wireless data channel **(column 11 lines 36-51; if a mobile station does not have data to be transmitted, it may transmit a packet dummy control block that informs the network when the TBF can be released)**.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the method for transferring information taught by Forssell into the state transition method disclosed by Koo as modified by the method of allocating resources suggested by Pankaj. The motivation for such a modification is to support delay sensitive traffic while utilizing radio resources efficiently.

Regarding claim 2, Koo discloses the step of transmitting data over the wireless data channel comprises the step of transmitting data over a Code Division Multiple Access Supplemental Channel **(column 1 lines 49-54; communication between a base station and mobile station use dedicated channels such as a supplemental channel)**.

Regarding claim 3, Pankaj discloses wherein the time period is proportional to the data rate **(column 12 lines 38-61; dynamically determining a timer interval based upon data rate)**.

Regarding claim 7, Koo discloses channel circuitry for transmitting data at a data rate **(figure; in an active state, data is transmitted on a traffic channel at a high/low rate)**; a timer coupled to the channel circuitry, wherein the timer delays deactivation of the channel circuitry after data transmission for a period of time **(column 2 lines 44-47; when the data transmission is discontinued for a predetermined time, the traffic channel is released)**.

Koo fails to explicitly suggest wherein the time period is based on the data rate.

Pankaj teaches wherein the time period is based on the data rate **(column 12 lines 38-61; scheduling a premium queue for transmission by maintaining a timer that is based upon data rate)**.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the method of allocating resources taught by Pankaj into the state transition method disclosed by Koo. The motivation for such a modification is a system and method of allocating communication resources among subscribers to a communication network efficiently and fairly according to a network policy of allocating the communication resources among the subscribers.

Koo, Pankaj, and/or their combination fail to explicitly suggest establishing a temporary block flow (TBF) to transmit data over the wireless data channel; and delaying termination of the TBF by transmitting dummy data over the wireless data channel.

Forssell teaches establishing a temporary block flow (TBF) to transmit data over the wireless data channel **(column 10 lines 13-18; establishing a temporary block flow to transmit data)**; and delaying termination of the TBF **(column 11 lines 51-54; releasing a temporary block flow after a predetermined time has passed from the latest transmission)** by transmitting dummy data over the wireless data channel **(column 11 lines 36-39; if a mobile station does not have data to be transmitted, it may transmit a packet dummy control block that informs the network when the TBF can be released)**.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the method for transferring information taught by Forssell into the state transition method disclosed by Koo as modified by the method of allocating resources suggested by Pankaj. The motivation for such a modification is to support delay sensitive traffic while utilizing radio resources efficiently.

Regarding claim 8, Pankaj discloses wherein the period of time is proportional to the data rate **(column 12 lines 38-61; dynamically determining a timer interval based upon data rate)**.

Regarding claim 9, Koo discloses wherein the channel circuitry comprises CDMA fundamental channel circuitry **(column 1 lines 49-54; communication between a base station and mobile station use dedicated channels such as a fundamental channel)**.

Conclusion

5. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FEBEN HAILE whose telephone number is (571)272-3072. The examiner can normally be reached on 10:00 am-6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Aung Moe can be reached on (571)272-7314. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Aung S. Moe/
Supervisory Patent Examiner, Art Unit 2474

/FEBEN HAILE/
Examiner, Art Unit 2474